

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Thomas Raymond Firriolo,	)	C/A No. 6:17-cv-03319-DCC
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER
South Carolina Law Enforcement Division,	)	
Lieutenant Elizabeth Corley, Mark A. Keel,	)	
Paul Grant, City of Greenville, Mr. Brad Rice,	)	
Mr. Jeff Bowen, Mr. Gary Fenell, Ms. Jodie	)	
Dudash, Mr. Bobbie Skinner, Ms. Cynthia	)	
Vilardo, Ms. Tommy,	)	
	)	
Defendants.	)	

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This matter is before the Court on Plaintiff's Complaint and Amended Complaint. ECF No. 1, 8. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings. On January 24, 2018, the Magistrate Judge issued a Report and Recommendation ("Report") recommending that the Complaint be dismissed without prejudice and without issuance of service of process. ECF No. 13. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or

modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

The Report recommends that the Complaint be dismissed because this Court does not have subject matter jurisdiction either through diversity of citizenship or as a result of a federal question at issue in this case. In his objections, Plaintiff alleges claims for fraud and failure to uphold the South Carolina Constitution, law, statutes, regulations, policies, and customs. Plaintiff seems to contend that his Amended Complaint should not be considered. However, in its review of the Report, the Court has reviewed both the Complaint and the Amended Complaint in their entirety and concludes that the action should be dismissed under either document.

Plaintiff has filed lengthy objections to the Report; however, he has failed to allege any facts in support of finding this Court has jurisdiction over any of his claims. Specifically, it does not appear that Plaintiff has alleged any plausible allegation in support of a federal cause of action and specifically states that diversity jurisdiction is inapplicable in the present action. Plaintiff appears to recite the elements of an excessive force claim but does not allege that any Defendant acted with force upon him. He seems to allege that some Defendants interfered with a state court proceeding and failed to comply with a state

court order and that he has been subjected to unequal treatment; however, he fails to provide any factual support for his conclusory statements. *See Petrosyan v. Delfin Grp. U.S.A., LLC*, No. 2:13-cv-2990-PMD, 2015 WL 685266, at \*7 (D.S.C. Feb. 18, 2015) (“[W]here the claims in a complaint are insufficiently supported by factual allegations, these claims may be properly dismissed by summary dismissal.” (internal citation omitted)). Accordingly, for the reasons listed above and the reasons provided in the Report, the Plaintiff has failed to plausibly allege that this Court has jurisdiction over his claims.

### **CONCLUSION**

Accordingly, the Court adopts the Report and Recommendation of the Magistrate Judge and overrules Plaintiff’s objections. Plaintiff’s Complaint is **DISMISSED** without prejudice and without issuance of service of process. Plaintiff’s Motions to Transfer are **DENIED as MOOT**.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

April 18, 2018  
Spartanburg, South Carolina

### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.